

Before the  
Federal Communications Commission  
Washington, DC 20554

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FCC MAIL SECTION

In the Matter of )  
)  
Request for Review of the )  
Decision of the )  
Universal Service Administrator by )  
)  
White Sulphur Springs School District )  
White Sulphur Springs, Montana )  
)  
Federal-State Joint Board on )  
Universal Service )  
)  
Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

File No. SLD-82064

CC Docket No. 96-45 ✓

CC Docket No. 97-21

**ORDER**

**Adopted: November 16, 1999**

**Released: November 16, 1999**

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal, filed on April 22, 1999, by the White Sulphur Springs School District of White Sulphur Springs, Montana (White Sulphur Springs), seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). White Sulphur Springs seeks review of SLD's denial of its request for funding of internal connection services, which included a particular type of router.<sup>1</sup> For the reasons set forth below, we grant White Sulphur Springs' appeal to the extent provided herein, and remand White Sulphur Springs' funding application to the SLD for further determination in accordance with this order.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>2</sup>

3. By letter dated February 18, 1999, SLD denied White Sulphur Springs' request for a discount on the cost of implementing certain internal connection services.<sup>3</sup> Specifically,

<sup>1</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

SLD denied funding for funding request number (FRN) 89418 of White Sulphur Springs' application for discount funding.<sup>4</sup> In its February 18, 1999 letter, SLD explained that White Sulphur Springs' funding request had been denied because it included a request for a discount on a Kentrox Pacesetter T1 Access Router, which included integrated DSU/CSU<sup>5</sup> and ISDN HS WAN<sup>6</sup> and was ineligible for discount funding.<sup>7</sup>

4. In a letter filed with SLD on March 18, 1999, White Sulphur Springs appealed SLD's denial of this funding request.<sup>8</sup> White Sulphur Springs explained that the particular brand of router at issue was required by its service provider for receiving 56k Internet access. White Sulphur Springs further explained that the router was capable of providing up to T1 speeds, enabling White Sulphur Springs to avoid purchasing a new router each time it wanted to increase bandwidth. Citing SLD's Eligible Service List, White Sulphur Springs asserted that both routers and CSU/DSU equipment are eligible for funding. White Sulphur Springs further maintained that, although the router is capable of being used in a WAN environment, White Sulphur Springs is not making such use of the router. White Sulphur Springs added that the router was advertised as providing "cost effective Internet access for small LANs," the same purpose for which White Sulphur Springs is using the router. By letter dated March 26, 1999, SLD denied White Sulphur Springs' appeal.<sup>9</sup> SLD determined that the router at issue was a remote access router and, therefore, was ineligible for funding.<sup>10</sup>

5. In a letter filed with the Commission on April 22, 1999, White Sulphur Springs appealed SLD's denial of its request for funding of FRN 89418.<sup>11</sup> In its appeal to the Commission, White Sulphur Springs asserts that the router is being used neither for WAN purposes generally nor specifically for remote access. White Sulphur Springs further points out that its contract with its service provider explicitly prohibits White Sulphur Springs from

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<sup>3</sup> See Letter of the Schools and Libraries Division, Universal Service Administrative Company, to Roger Armstrong, White Sulphur Springs School District, dated February 18, 1999 (*Funding Commitment Letter*).

<sup>4</sup> See *id.* at 4 (stating that FRN 89418 had been denied).

<sup>5</sup> DSU/CSU stands for data service unit/channel service unit. CSU equipment interfaces between carriers and customer end user equipment, managing and monitoring digital transmissions between carriers and customers for signal quality and transmission problems. DSU equipment interfaces between CSU and end user computer equipment, converting end user binary data into the format required for T1 or FT1 transmission.

<sup>6</sup> ISDN HS WAN stands for integrated services digital network, high speed wide area network.

<sup>7</sup> See *Funding Commitment Letter* at 4.

<sup>8</sup> See Letter of James Palmer, White Sulphur Springs School District, to Schools and Libraries Division, Universal Service Administrative Company, date unknown (received March 18, 1999) (*USAC Appeal Letter*).

<sup>9</sup> See Letter of Schools and Libraries Division, Universal Service Administrative Company, to Roger Armstrong, White Sulphur Springs School District, dated March 26, 1999 (*Administrator's Decision on Appeal*).

<sup>10</sup> See *id.*

<sup>11</sup> See Letter of Roger Armstrong, White Sulphur Springs School District, to Office of the Secretary, FCC, date unknown (received on April 22, 1999).

attaching modems to the router in order to access the router's Internet connection remotely. In its appeal to the Commission, White Sulphur Springs further asserts that both routers and CSU/DSUs are eligible for funding. White Sulphur Springs requests that the Commission reverse SLD's decisions denying White Sulphur Springs' request for discounts on internal connections in FRN 89418, and that the Commission direct SLD to approve this request.<sup>12</sup>

6. Under section 54.500 of the Commission's rules, a wide area network is defined as "a voice or data network that provides connections from one or more computers within an eligible school . . . to one or more computers or networks that are external to such eligible school."<sup>13</sup> Section 54.518 of the Commission's rules states that "[t]o the extent that states [or] schools . . . build or purchase a wide area network to provide telecommunications services, the cost of such wide area networks shall not be eligible for universal service discounts."<sup>14</sup>

7. As the Commission stated in its *Tennessee* decision, "we can, where appropriate, look behind transactions underlying requests for discounts to ensure that they comply with [the Commission's] rules."<sup>15</sup> Under the facts presented here, we conclude that the router in dispute here is not part of an ineligible wide area network. Although the router is capable of supporting WAN connections, White Sulphur Springs is not using the router to connect to any facilities other than to its Internet service provider in order to receive Internet access. In addition, White Sulphur Springs' contract with its service provider explicitly forbids White Sulphur Springs from connecting modems to the router in order to access the router's Internet connection remotely. Given that the router at issue is marketed primarily to be used for what is an eligible service, namely to provide Internet access for small LANs, and given that this use is the only use White Sulphur Springs is making of the router, we conclude that the presence of additional, peripheral WAN functionality in the router, which is not being used, does not render the router ineligible for funding as a part of wide area network facilities. As such, we conclude that White Sulphur Springs is entitled to discounts for this service.

8. To the extent necessary to effectuate the decision above, we grant a waiver of section 54.507(b)(2) of the Commission's rules.<sup>16</sup> This rule provides that schools and libraries may receive discounts on nonrecurring services only through September 30, 1999.

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the appeal filed by White Sulphur Springs School District on April 22, 1999, IS

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<sup>12</sup> See *id.*

<sup>13</sup> 47 C.F.R. § 54.500(l).

<sup>14</sup> 47 C.F.R. § 54.518. See also *Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator*, CC Docket Nos. 96-45 and 97-21, Order, FCC 99-216, 1999 WL 604160, para. 28 (rel. August 11, 1999) (*Tennessee*) (discussing the Commission's rules regarding the eligibility of internal connections for discount funding, and the ineligibility of wide area network facilities for discount funding).

<sup>15</sup> *Tennessee*, 1999 WL 604160, para. 27.

<sup>16</sup> 47 C.F.R. § 54.507(b)(2).

GRANTED to the extent provided herein. We direct the Administrator to review White Sulphur Springs' funding application and to issue a revised Funding Commitment Decision Letter consistent with the decision above.

10. IT IS FURTHER ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that section 54.507(b)(2) of the Commission's rules, 47 C.F.R. § 54.507(b)(2), is WAIVED for a period of up to 180 days following the date of the issuance of a Funding Commitment Letter by the Administrator pursuant to this order.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Yog R. Varma", is written over a horizontal line. The signature is stylized and cursive.

Yog R. Varma  
Deputy Chief, Common Carrier Bureau